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REMARKS

This is a full and timely response to the outstanding Office action mailed December 5, 2005. Upon entry of the amendments in this response claims 1-23, 35-45, and 47-62 are pending. More specifically, claims 1, 4, 5, 6, 7, 13, 17, 18, 35, 39, 40, 51, and 52 are amended; claims 24-34 are canceled; and claims 59-62 are added. Claims 24-34 are canceled without prejudice or disclaimer. Applicant takes this action merely to reduce the number of issues and to facilitate early allowance and issuance of the present application. Applicant reserves the right to pursue the subject matter of this canceled claim in a continuing application, if applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claims 1-11, 13-22, 24-33, 35-44, 46-56, and 58 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Loucks* (U.S. Patent No. 6,760,412). Claims 12, 23, 34, 45, and 57 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). To the extent that these rejections have not been rendered moot by the cancellation of claims, they are respectfully traversed.

II. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiner Escalante spent with Applicant's representatives Jeff Kuester and Benjie Balser during a January 10, 2006, telephone discussion regarding the above-identified Office Action. Applicant believes that various features described in the patent application and recited in the independent claims, including a first user and a second user in regard to *Loucks*, were discussed during the telephone discussion, and that the outcome of this discussion is addressed herein. During that conversation, Examiner Escalante seemed to indicate that it would be potentially beneficial for Applicant to

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file this amendment and response. Thus, Applicant respectfully requests that Examiner Escalante carefully consider this amendment and response.

III. Rejections Under 35 U.S.C. §102(e)

A. Claims 1-11

The Office Action rejects claims 1-11 under 35 U.S.C. §102(e) as allegedly being anticipated by *Loucks* (U.S. Patent No. 6,760,412). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 as amended recites:

1. A method of arranging for an electronically-recorded message to be delivered to a communication medium of a second user at a selected time, said method comprising the steps of:
recording the message by a first user on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;
inputting an access code for accessing the communication medium of the second user; and
indicating a delivery time for delivery of the message from the stand-alone communication device to the communication medium of the second user.
(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Loucks* does not disclose, teach, or suggest at least **indicating a delivery time for delivery of the message from the stand-alone communication device to the communication medium of the second user.**

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Even if *Loucks* discloses sending a reminder to send a message, *Loucks* does not disclose sending a message to a second user. Therefore, *Loucks* does not anticipate independent claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the cited references of record, dependent claims 2-11 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-11 contain all the steps/features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002); *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-11 are patentable over *Loucks*, the rejection to claims 2-11 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-11 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 2-11 are allowable.

B. Claims 13-22

The Office Action rejects claims 13-22 under 35 U.S.C. §102(e) as allegedly being anticipated by *Loucks* (U.S. Patent No. 6,760,412). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 13 as amended recites:

13. A method of sending an electronically-recorded message to a communication medium of a second user at a selected time, said method comprises the steps of:

recording the message by a first user on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;

inputting an access code for accessing the communication medium of the second user;

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indicating a delivery time for delivery of the message to a communication medium of the second user; and

sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 13 as amended is allowable for at least the reason that *Loucks* does not disclose, teach, or suggest at least **sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.**

Even if *Loucks* discloses sending a reminder to send a message, *Loucks* does not disclose sending a message to a second user. Therefore, *Loucks* does not anticipate independent claim 1, and the rejection should be withdrawn. Therefore, *Loucks* does not anticipate independent claim 13, and the rejection should be withdrawn.

Because independent claim 13 as amended is allowable over the cited references of record, dependent claims 14-22 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14-22 contain all the steps/features of independent claim 13. Therefore, since dependent claims 14-22 are patentable over *Loucks*, the rejection to claims 14-22 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 13, dependent claims 14-22 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 14-22 are allowable.

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C. Claims 35-44

The Office Action rejects claims 35-44 under 35 U.S.C. §102(e) as allegedly being anticipated by *Loucks* (U.S. Patent No. 6,760,412). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 35 as amended recites:

35. A system for arranging for an electronically-recorded message to a communication medium of a second user at a selected time, said system comprising:

- means for recording by a first user a message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;
- means for inputting an access code for accessing a communication medium of the second user;
- means for indicating a delivery time for delivery of the message to a communication medium of the second user; and
- means for sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.*

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 35 as amended is allowable for at least the reason that *Loucks* does not disclose, teach, or suggest at least **means for sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.**

Even if *Loucks* discloses sending a reminder to send a message, *Loucks* does not disclose sending a message to a second user. Therefore, *Loucks* does not anticipate independent claim 1, and the rejection should be withdrawn. Therefore, *Loucks* does not anticipate independent claim 35, and the rejection should be withdrawn.

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Because independent claim 35 as amended is allowable over the cited references of record, dependent claims 36-44 (which depend from independent claim 35) are allowable as a matter of law for at least the reason that dependent claims 36-44 contain all the steps/features of independent claim 35. Therefore, since dependent claims 36-44 are patentable over *Loucks*, the rejection to claims 36-44 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 35, dependent claims 36-44 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 36-44 are allowable.

D. Claims 47-56

The Office Action rejects claims 47-56 under 35 U.S.C. §102(e) as allegedly being anticipated by *Loucks* (U.S. Patent No. 6,760,412). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 47 as amended recites:

47. A system for sending an electronically-recorded message to a communication medium of a second user at a selected time, said system comprising:

means for recording by a first user a message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;

means for inputting an access code for accessing a communication medium of the second user;

means for indicating a delivery time for delivery of the message to a communication medium of the second user;

means for keeping track of a clock time; and

means for sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.

(Emphasis added).

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For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 47 as amended is allowable for at least the reason that *Loucks* does not disclose, teach, or suggest at least **means for sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time.**

Even if *Loucks* discloses sending a reminder to send a message, *Loucks* does not disclose sending a message to a second user. Therefore, *Loucks* does not anticipate independent claim 1, and the rejection should be withdrawn. Therefore, *Loucks* does not anticipate independent claim 47, and the rejection should be withdrawn.

Because independent claim 48-56 as amended is allowable over the cited references of record, dependent claims 48-56 (which depend from independent claim 47) are allowable as a matter of law for at least the reason that dependent claims 48-56 contain all the steps/features of independent claim 47. Therefore, since dependent claims 48-56 are patentable over *Loucks*, the rejection to claims 48-56 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 47, dependent claims 48-56 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 48-56 are allowable.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claims 12, 23, 34, 45, and 57

The Office Action rejects claims 12, 23, 34, 45, and 57 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claims 1, 13, 35, and 47 are allowable over the cited references of record, dependent claims 12, 23, 34, 45, and 57 are allowable as a matter of law for at least the

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reason that the dependent claims 12, 23, 34, 45, and 57 contain all the steps/features of their corresponding independent claims. Therefore, the rejection to the dependent claims 12, 23, 34, 45, and 57 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of the independent claims, the dependent claims recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why these dependent claims are allowable.

Additionally, with regard to the rejection of claims 12, 23, 34, 45, and 57, *Langsenkamp* does not make up for the deficiencies of *Loucks* noted above. Therefore, claims 12, 23, 34, 45, and 57 are considered patentable over any combination of these documents.

V. Miscellaneous Issues

Applicant respectfully submits that newly added claims 59-62 are allowable as they claim subject matter not taught, disclosed, or suggested in the references of record.

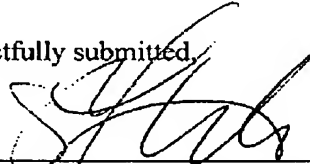
Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

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CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-23, 35-45, and 47-62 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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